

**IN THE UNITED STATES DISTRICT COURT FOR THE
FOR THE WESTERN DISTRICT OF OKLAHOMA**

ROY CURTIS ZORNES,)	
)	
Petitioner,)	
vs.)	NO. CIV-05-0735-HE
)	
RON WARD,)	
)	
Respondent.)	

ORDER


Petitioner Roy Curtis Zornes instituted this action under 28 U.S.C. § 2254 seeking habeas relief and, consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred for initial proceedings to Magistrate Judge Doyle W. Argo. The petitioner then filed a motion seeking leave to proceed in forma pauperis, which the magistrate judge, having found the petitioner has sufficient financial resources to prepay the \$5 filing fee, has recommended be denied. The magistrate judge also recommends that the action be dismissed without prejudice unless the petitioner pays the full filing fee within twenty days of the entry of an order adopting his Report and Recommendation. The petitioner failed to object to the Report and Recommendation and, accordingly, waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996), *cert. denied*, 519 U.S. 909 (1996). *See* 28 U.S.C. § 636(b)(1)(C); LCvR72.1(a).

Accordingly, the court adopts Magistrate Argo's Report and Recommendation and **DENIES** the petitioner's motion to proceed in forma pauperis [doc. no. 9]. By September 7, 2005, the petitioner is directed to pay the \$5 fee and file a complete copy of his brief in support of his petition, styled an amended brief. *See* Report and Recommendation, p.1, n.1. Failure either to pay the fee or file an amended brief will result in the dismissal of this action

without prejudice.

IT IS SO ORDERED.

Dated this 15th day of August, 2005.



JOE HEATON
UNITED STATES DISTRICT JUDGE